THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No. 19842 of 1999

Dated:24-09-2007

Between:-

Normak Fashions Pvt., Ltd.,
Bouduppal, Hyderabad rep., by
its Managing Director-Gusti Noria.

..Petitioner

And

Director of Legal Metrology, Chandini Chowk,
New Delhi and two others.

..Respondents.

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:O R D E R:

The petitioner, which is the manufacturer of artificial jewellery, approached this Court and filed the present writ petition seeking the following relief:

> *"… restraining the respondents or their subordinates from applying the provisions of the Standards of Weights and Measures (Enforcement) Act, 1985 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 to the artificial jewellery manufactured by the petitioner after declaring the action of the respondents in applying the provisions of Standards of Weights and Measures (Enforcement) Act, 1985 and the Standards of Weights and Measurers (Packaged Commodities) Rules, 1977 is arbitrary, illegal and hence violative of Article 14 and 19 (1)(g) of the Constitution of India."*

The case of the petitioner is that it is a registered company dealing with manufacturing of artificial jewellery. It is having various distributors all over the country. The ornaments manufactured by the petitioner are such that unless they are exhibited to the customers and the

customers are satisfied with its design and model, they will not purchase the same. There is also no guarantee to the ornaments offered by the petitioner nor the said ornaments have any re-saleable value or any recoverable value on melting. The question of pre-packing the ornaments either at the end of the petitioner or by its distributors or by the retailers does not arise. The provisions of the Standards of Weights and Measurers (Enforcement) Act, 1985 (for short 'the Act') or the Standard of Weights and Measurers (Packaged Commodities) Rules, 1977 (for short 'the Rules') do not apply to the artificial jewellery manufactured by the petitioner and the said provisions are applicable only in case of pre-packed commodities by the manufacturer.

It is stated that the subordinates of the respondents registered a case against a dealer of the artificial jewellery manufactured by the petitioner through its Distributor 'Celebration' by name M/s. Simran Emitation Jewellry, Mulund, Mubai for the alleged violation of the provisions of Section 33 of the Act and imposed fine under Section 51 of the Act.

It is the case of the petitioner that it had made ready the artificial jewellery worth lakhs of rupees for distribution all over the country and the jewellery is ready for despatch. In the circumstances, the distributors are not coming forward to take the stocks for distribution. Hence the relief sought as adverted above.

Counter affidavit is filed on behalf of the respondents wherein it is clearly stated that the Assistant Controller, Legal Metrology, Flying Squad, Hyderabad visited the petitioner's premises and it has been found that the fashion jewellery items are found to be available in open covers which do not come within the provisions of the Rules. In the light of the specific stand taken by the respondents that the artificial jewellery manufactured by the petitioner do not attract the provisions either under the Act or the Rules, the respondents or their subordinates are hereby restrained from applying the provisions of the Act or the Rules in respect of the artificial jewellery manufactured by the petitioner for initiating both civil or criminal proceedings against the petitioner or its distributors for not packing the artificial jewellery. Accordingly, this writ petition is allowed. No costs.

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GOPALA KRISHNA
TAMADA, J

Dated: 24-09-2007.
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